IN THE UNITED STATES PATENT & TRADEMARK OFFICE

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EXAMINER:	Thomas J. Dailey	
APPLICANT:	Bruno Richard	**CERTIFICATE OF DEPOSIT**
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FILED:	July 24, 2003	I hereby certify that this paper or fee (along with any paper or fee referred to as being attached or enclosed) is being electronically deposited using EFS Web with the United States Patent Office on the date indicated above.
CONF. NO.:	2830	
FOR:	PROCESS FOR DISTRIBUTING NETWORK CONFIGURATION SETTINGS, AND APPARATUS FOR DOING THE SAME	/Steve M. Perry/ **Steve M. Perry**
DOCKET NO.: 50016924-2		

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REPLY BRIEF

Commissioner for Patents
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Mail Stop Appeal Brief – Patents

Sir:

Appellants submit this Reply Brief in response to the Examiner's Answer mailed October 30, 2009 in connection with their appeal from the final rejection of the Patent Office, mailed April 29, 2009, in the above-identified application. A Notice of Appeal was filed on July 16, 2009.

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I. STATUS OF CLAIMS

No claims are allowed.

Claims 1-14 and 17-19 are pending.

Claims 2-5, 6-13, and 18-19 are rejected under 35 U.S.C. 112 as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention. Claims 1-2, 5, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated

by Buse et al. (UK Patent Published Patent Application, GB 2 356 111 A). Claims 4, 6, 9, 13

and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buse. Claims 3, 7 and

10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buse as applied to claim 1

and 6 and further in view of Cole et al. (US Pat. 5,854,901). Claim 8 is rejected under 35 U.S.C.

103(a) as being unpatentable over Buse as applied to claim 6 above and further in view of

Taniguchi (US Pat. 6,928,282). Claim 19 is rejected under 35 U.S.C. 103(a) as being

unpatentable over Buse as applied to claim 17 above and further in view of Liming (US Pub. No.

2002/0055924).

Claims 1-14 and 17-19 are appealed.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issues presented for review are:

A. Whether claims 2-5, 6-13, and 18-19 are being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

B. Whether claims 1-2, 5, 12 and 14 are unpatentable under 35 U.S.C. § 102 as being anticipated by Buse.

C. Whether claims 4, 6, 9, 13 and 17-18 are unpatentable under 35 U.S.C. § 103(a) as being obvious over Buse.

D. Whether claims 3, 7 and 10-11 are unpatentable under 35 U.S.C. § 103(a) as being obvious over Buse in view of Cole.

E. Whether claim 8 is unpatentable under 35 U.S.C. § 103(a) as being obvious over Buse in view of Taniguchi.

F. Whether claim 19 is unpatentable under 35 U.S.C. § 103(a) as being obvious over Buse in view of Liming.

III. RESPONSE TO EXAMINER'S ANSWER

A. Re: Claims 2-5, 6-13, and 18-19

The Examiner's Answer maintains a rejection of claims 2-5, 6-13, and 18-19 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, claims 2-5, 7-13, and 18-19 recite "Process for distributing an IP address in accordance with claim …". The Examiner asserts that the preamble of these claims lacks antecedent basis and it is unclear whether the Applicant is referring to "a process" or "the process". Appellant notes that the preambles of the independent claims were not objected to and that the preambles of the independent claims do not recite "a process" (or even "the process"). Thus, recitation of "the process" in the dependent claims may antecedent basis since "a process" was not previously introduced. Appellant further submits that there is no confusion as to what process is referred to since all of the preambles recite, "Process for distributing an IP address **in accordance with claim …**", and there are no other processes in the claims referred to. Additionally, Appellant notes that dependent claim preambles are acceptable when worded either as "a process" or "the process" (see for example M.P.E.P. 608.01(n)-1-A) even in light of the fact that each claim, dependent or independent, defines a separate invention. Therefore, Applicant submits that claims 2-5, 7-13, and 18-19 are allowable and requests the board to overturn the rejection under 35 U.S.C. 112.

B. Re: Claims 1-2, 5, 12 and 14

In reply to argument (1) of the Examiner's Answer, Appellant contends that the "I_AM_HERE" message of Buse is not a request for network parameters. The Buse reference

clearly states that the proxy sends a DHCP request on behalf of the device when such a message is received. However, Buse does not refer to the "I_AM_HERE" message as a request. The "I_AM_HERE" message with the dummy IP address is merely an identification of the device. Until the device has been configured otherwise, the information sent by the device is the identifying information for that device and is not a request or anything other than the identification requested by the proxy. Hence, Buse refers to this information as an "unconfigured IP address" and states that a response received by the proxy from a device with an unconfigured IP address will initiate a process at the proxy for resolving the IP address. A proxy that is configured to handle different IP addresses differently does not change the fact that the received IP address is an identification of the device and nothing more. Thus, the newly connected device of Buse does **not** send a request.

Appellant notes that the Examiner's Answer failed to address arguments presented regarding the timer claimed in claim 1.

Buse fails to start a timer in response to detecting a request for network parameters from a newly connected device. As described above, the newly connected devices in Buse do not send requests. The section of Buse cited as support for starting a timer in response to such detection states that the proxy starts a timer when sending a message back to the newly connected device. The timer is **not** started in response to receiving a request. The timer is started in response to the proxy sending a message.

Buse fails to disclose transmitting network settings to the requesting device in response to the expiration of the first period unless another one of the set of devices supplies network settings to the requesting device before the expiration of the first period. None of the citations of

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Buse cited as support for this claim element describe devices other than the proxy supplying network settings to newly connected devices. In fact, Buse cannot support such a proposition, because the timer of Buse is started in response to the proxy sending a message to the newly connected device. No other devices receive this message or have an opportunity to respond. Nor is the message a request for response from the newly connected device or any other device. Rather, the citations of Buse describe that if the newly connected device fails to respond to the message from the proxy, then a determination will be made as to whether the proxy's address is in the automatic private IP range. This determination affects what IP address will be assigned to the newly connected device by the proxy device. Buse fails to describe transmitting requested device network settings in response to the expiration of the time period. The time period is used to determine what type of IP address should be assigned. The transmission of IP address in Buse is not in response to expiration of the timer but is in response to the determination of what type of IP address should be assigned. Thus, Buse fails to disclose transmitting network settings to the requesting device in response to the expiration of the first period unless another one of the set of devices supplies network settings to the requesting device before the expiration of the first period.

For the foregoing reasons, as well as for reasons previously presented, Appellant submits that independent claim 1 is allowable and urges the Board to overturn the rejection. Independent claim 14 is allowable for the same reasons described regarding claim 1. Claims 2, 5 and 12 are allowable at least for their dependence on allowable claim 1.

C. Re: Claims 4, 6, 9, 13 and 17-18

As to claim 6, Buse fails to disclose detecting an address request issued by a newly connected requesting device as argued above regarding claim 1. Buse fails to disclose starting a timer in response to detecting such a request as also argued above regarding claim 1.

Buse fails to disclose testing whether a DHCP request received a response from a DHCP server. The cited portion of Buse states that the proxy sends a message to the newly connected device and waits for a response from the newly connected device. Buse does **not** describe the possibility of a DHCP server responding to the message (which is not a request) from the newly connected device. The newly connected device is not a DHCP server. No messages or requests are sent to a DHCP server at this point of the process. Thus, the Buse proxy does not and would not test whether a response was received from a DHCP server.

The Buse process does not terminate when a response from a DHCP server is detected. The Examiner's Answer in fact states that the process continues executing because the proxy sends an IP address assignment to the newly connected device.

The Examiner's Answer states that Buse sends an IP address to the newly connected device whether a DHCP server response is received or not. The claim makes a distinction where the process ends if such a response is received and where the process continues if such a response is not received.

The Examiner's Answer correctly acknowledges that Buse fails to disclose that the address request issued by a newly requesting device is a DHCP request. As described above, the Buse newly connected device does not even issue an address request but instead sends a message. The Examiner's Answer states that it would be an obvious and simple substitution to send a DHCP request from the newly connected device instead of the proxy device. However,

Appellant notes that such a substitution would **not** work and does not provide the functionality of the present application. First, the Buse system is destroyed by removing the proxy device from the functionality of the system. Second, using the newly connected device to send the request does not enable address assignment when there is no DHCP server present since the proxy assigns the address in the absence of a DHCP server. Third, according to the present claims, a Network Parameter Allocation Agent (NPAA) can be embodied within a specific software agent installed in a computer, the NPAA being well suited for elaborating and distributing network parameters to other client computers even when a DHCP server or other instances of NPAA agents are already installed. In other words the NPAA can perform address assignment **even when there is a DHCP server or other NPAA on the network**. Buse is very explicit in stating that the proxy only assigns an address when there is **no** DHCP server. Buse fails to disclose or suggest assignment of an address even when there is a DHCP server.

The Examiner's Answer correctly acknowledges that Buse fails to disclose starting a second timer after the expiration of the first timer. As described above, Buse fails to describe even a first timer as recited in the present claims. Furthermore, the two timers recited in claim 6 serve a useful purpose, which is a different purpose than the purpose served by the Buse timer, as described above. One of ordinary skill in the art would view a second timer in Buse as extraneous, as stated by the Examiner. However, a second timer as recited in claim 6, serves a useful purpose and is not extraneous or redundant. For example, paragraphs [0071-0074] recite the following:

> If the NPAA is running in a device which is not a router, the process then proceeds to a step 406 where a second timer or watch dog mechanism is initiated. The time delay associated to the second watchdog mechanism closely depends on a set of factors which may vary in accordance with the embodiment of the invention which is considered. The factors or set of criteria which are used permit the different NPAA

instances existing in the different devices to be discriminated, and to allow the election of one instance.

In one embodiment, the second delay is dependent on a mathematical factor computed from the MAC address of both the device where the NPAA agent is located and the MAC address of the requesting device. Preferably, the mathematical distance between the two MAC address is computed in order to provided the lower duration to only one device.

In an alternate embodiment, the second delay is closely dependent on the experience developed by the device and more particularly NPAA agent. This is achieved by deriving said second duration T2 as a function of the time of powering on of the device where the NPAA agent is running. Different embodiments can be used. In the case of the UNIX implementation, the value of the UPTIME parameter can be advantageously used for the purpose of computing the second duration.

Thus, there are a number of uses of a second timer which are simply not disclosed or obvious from Buse.

For the foregoing reasons, Appellant asserts that the Buse reference fails to disclose the elements of claim 6 and that the Examiner has failed to establish a prima facie case of obviousness.

As to claim 17, Buse fails to describe transmission of a DHCP request to a network. As described above, Buse fails to disclose the newly connected device generating and transmitting a request. The Buse device sends a message. The message is not sent to the network. The message is sent to the proxy. The Examiner's Answer acknowledges that Buse fails to disclose a DHCP request sent by a newly connected device.

Buse fails to disclose testing the existence of one gateway corresponding to one particular set of parameters among at least one set of configuration parameters, and, if said testing indicates the existence of said gateway, loading and applying said particular set of parameters. The Buse citations state that if there is a timeout without a response from a DHCP server to a request sent

from the proxy then determination will be made as to whether the proxy's address is in the automatic private IP range. This determination is not a test of the existence of a gateway.

As to claim 4, Buse fails to disclose wherein said predetermined criterion is related to experience gathered by said at least one device. The criterion in the present claim 4 is a criterion upon which a first period of a first timer is dependent. The timer of Buse is not dependent on any such criterion and the Examiner's Answer has failed to demonstrate support for such a feature. Furthermore, the cited support in Buse for "experience gathered" fails to describe gathered experience. Rather, the citation describes that the proxy determines whether the proxy address is in the private automatic IP range. The proxy is not **gathering** information about the IP range but merely identifying an aspect of information that is already part of the proxy and/or information held by the proxy. The proxy has no need to gather the information because it already has the information. Furthermore, such information is not based on experience but is based on a setup configuration of the Buse system.

As to claim 9, the Examiner's Answer asserts obviousness of adjusting the period of time of the timer. However, the Examiner's Answer fails to address that the timer referred to in claim 9 is a second timer which follows a first timer, each timer further facilitating different aspects of the invention. Earlier in the Examiner's Answer, the Examiner stated that a second timer is extraneous in Buse. The present claim is not directed at adjusting a time of the first timer. To provide adjustment of a second timer which is not disclosed or obvious in view of Buse, and which provides further functionality when used with the first timer, cannot therefore be obvious.

Furthermore, as to claim 9, the Examiner's discussion of time period adjustment fails to address the portion of the claim which recites that the second duration is computed... "so that a

particular device having **a longer experience** of the network has a **lower time of response** compared to **another device** having a relatively **shorter experience** of the network." Buse and the Examiner's Answer both fail to address the issues of comparison between devices, devices having experience of the network, or time periods based on experience of the network.

For the foregoing reasons, as well as for reasons previously presented, Appellant submits that claims 4, 6, 9, 13 and 17-18 are allowable and urges the Board to overturn the rejections.

D. Re: Claims 3, 7 and 10-11

As to claims 3 and 10, neither Buse nor Cole disclose an elaboration of a network environment performed via access to address resolution protocol tables **and** NSLOOKUP tables in the network. The Examiner's Answer acknowledges that Buse fails to disclose NSLOOKUP tables and cited Cole as support for overcoming this deficiency. Cole describes a router which receives DNS requests and sends ARP requests. The router processes the DNS requests and uses ARP requests to determine whether proposed IP addresses are assigned to another device. The router performs address discovery in response to receiving a DNS request, where the address discovery includes use of ARP requests. Processing of a DNS request **by the router** is **not** the equivalent of the **router consulting** NSLOOKUP tables. Cole does **not** describes NSLOOKUP or an equivalent. NSLOOKUP is used in Windows® and Unix® to query Domain Name System (DNS) servers to find DNS details, including IP addresses of a particular computer, MX records for a domain and the NS servers of a domain. Cole describes only using ARP requests and fails to disclose NSLOOKUP either explicitly or implicitly. Furthermore, because Cole does not

describe NSLOOKUP, one having ordinary skill in the art would not be motivated to combine Cole with Buse since the ARP of Cole is already disclosed by Buse. Additionally, the motivation cited by the Examiner for combining Cole with Buse fails because Buse discloses means for ensuring IP address availability.

As to claim 7, the Examiner's Answer correctly acknowledges that Buse fails to disclose a second timer being disregarded when the device is a router. The Examiner's Answer states that Cole discloses handling address assignment for routers differently, specifically by not utilizing timers. However, the cited section of Cole states that the address assignment for routers is the same as any other device. The router assigns addresses to all devices, including itself. Furthermore, the citation does **not** say anything about timers in the handling of address assignments for routers, let alone disregarding a second timer. Additionally, if the Examiner's Answer were correct that Cole teaches specifically to **not** use timers then Cole teaches away from the present application because claim 7 still uses a **first timer** and only disregards the **second timer**.

As to claim 11, Cole fails to disclose distributing the reference to an existing HTTP proxy. The cited section of Cole describes establishment of an HTTP connection between a host system and a web server. Thus, the Cole reference fails to disclose an **existing** HTTP connection. Additionally, the cited section of Cole fails to disclose distributing anything via the HTTP connection, let alone the reference claimed in claim 11. Finally, the cited section of Cole fails to disclose a proxy or an HTTP proxy.

As described above, neither Slezak nor Cragun disclose a cursor sound source. Furthermore, neither Slezak nor Cragun disclose **a distinctive cursor sound for output from the cursor sound source**. Therefore, neither Slezak nor Cragun individually or in combination disclose a cursor-control means capable of determining a current rendering position in the audio field of a cursor sound source and capable of providing a distinctive cursor sound for output from the cursor sound source.

For the foregoing reasons, as well as for reasons previously presented, Appellant submits that claims 3, 7 and 10-11 are allowable and urges the Board to overturn the rejections.

E. Re: Claim 8

As to Claim 8, neither Buse nor Taniguchi disclose a second timer duration derived from a computation of a MAC parameter of the device and the newly connected device.

First, the Examiner's Answer has stated that a second timer is extraneous in Buse. Therefore, it **cannot** be obvious to combine **any** reference with Buse to obtain additional features for a second timer.

Second, the MAC parameter is a MAC address as clearly understood by one having skill in the art and according to the disclosure of the present invention. In computer networking, a Media Access Control address (MAC address) is a unique identifier assigned to most network adapters or network interface cards (NICs) by the manufacturer for identification, and used in the Media Access Control protocol sub-layer. A MAC may also be known as an Ethernet Hardware Address (EHA), hardware address, adapter address, or physical address. The Examiner's

Answer cites Taniguchi for prioritizing devices but fails to demonstrate support for a MAC parameter. Claim 8 does not describe prioritization of assigning addresses among different devices and is directed at assigning an address to a single newly connected device and utilizes two timers to do so.

Third and finally, Taniguchi fails to describe timers of any kind, let alone a first or a second timer. The Examiner's Answer states that Taniguchi inherently includes time values. Time values are **not** the same as **timers**. Furthermore, the Examiner's Answer has provided no support for the inherency of time values.

For the foregoing reasons, as well as for reasons previously presented, Appellant submits that claim 8 is allowable and urges the Board to overturn the rejection.

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F. Re: Claim 19

As to claim 19, Liming fails to disclose assigning an IP address based on context determined from the location of the device, as returned by a GPS receiver.

Liming discloses provision of a spatial context for communications networks, such as the Internet, cable television systems, or telephone systems, by associating unique identifiers with spatial locations. Spatial locations returned by Liming include coordinates based on terrestrial systems (such as radio beacon navigation systems), satellite-based systems (such as GPS), or celestial-based systems (such as The World Geodetic System's WGS84 standard or North American datums such as NAD27).

Liming does **not** disclose assignment of IP addresses based on location of a device. Liming instead discloses associating spatial context with IP addresses. The cited section of Liming does not describe signals returned by a GPS receiver, but only describes that spatial locations provided by the system can be coordinates which are based on GPS systems.

Neither Buse nor Liming disclose or render obvious assignment of an IP address based on context determined from the location of the device, as returned by a GPS receiver. Therefore, Appellant submits that claim 19 is allowable and urges the Board to overturn the rejection.

IV. CONCLUSION

Appellant respectfully submits that the claims on appeal are patentably distinct from the asserted prior art references. Particularly, none of the asserted references or combinations of references anticipates, motivates, teaches, or suggests one of ordinary skill in the art within the meaning of 35 U.S.C. § 102 or 103 to arrive at the presently claimed invention. Appellants contend that Buse individually or in combination with any of the other cited references fails to teach each and every element of the claimed invention.

For these reasons, Appellants respectfully request that the Board of Appeals reverse the rejection and remand the case to the Examiner for allowance.

Dated this 21st day of December, 2009:

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